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CHAPTER I - INTRODUCTION

1. Program Description.

Subchapter I of chapter 85, title 5 of the United States Code (U.S.C.), as amended by Public Law 94-566, 90 Stat. 2667, 5 U.S.C. 8501-8509, provides for a permanent program of unemployment compensation for unemployed Federal civilian employees (UCFE). This program provides a weekly income for a limited period of time to unemployed Federal civilian workers who qualify, to help them meet basic needs while searching for employment.

Benefits are paid by the States, through more than 1700 State employment service (ES) and unemployment insurance (UI) claims offices, from funds provided by the Federal Government. No payroll deductions are made for UCFE protection.

Benefits are provided unemployed Federal civilian workers in the same amount, on the same terms, and subject to the same conditions as the compensation which would be payable under the unemployment compensation (UC) law of the State if their Federal service and Federal wages had been included as employment and wages under that State law. All State laws require that an individual have qualifying earnings during a past period specified by the law; file a claim and report regularly as directed; and be able to work and available for work. Denial of benefits until the individual becomes reemployed and earns a specific amount of wages, or a denial of benefits for a period of time specified by State law, will result if the unemployed Federal worker quit his/her job without good cause, was fired for misconduct connected with the work, or refuses a suitable job without good cause. These benefit determinations are made based on wage and separation information and documents provided by the unemployed Federal employee and the Federal agency. Appeal rights are provided the unemployed worker if he/she is denied benefits. If the denial is based on information about the worker's Federal service furnished by the Federal agency employer, the worker may request a review of the information. A Federal agency may also appeal the award of benefits to a former employee. However, all appeals or requests for review must be filed within legal time limits established by State law.

An individual's weekly benefit amount and the number of weeks benefits may be paid are determined by State law based on the individual's prior earnings. Some State laws increase the weekly amount by allowances for dependents. Most States pay a maximum of 26 weeks. Income while unemployed may affect an individual's eligibility for UI. In some States, benefits are reduced or denied if the individual receives pay for unused leave or severance pay. Federal law requires all States to reduce

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benefits, if the unemployed worker is receiving a pension, retirement pay, or any other periodic payment attributable to a base period employer.

To file a claim, unemployed Federal civilian workers go to their nearest State ES office or UI claims office. Claims may be filed in every State, the District of Columbia, Puerto Rico, and the Virgin Islands. Benefit rights generally are determined by the State where the unemployed Federal civilian worker had his/her last official duty station. However, if the unemployed worker's last official station was outside the 50 States, the District of Columbia, Puerto Rico, and the Virgin Islands, the law of the State in which he/she files the first claim will determine his/her benefit rights. (There are other rules which can change the assignment to another State, cancel or withdraw the wage assignment when a benefit year is not established. See Appendix B, UCFE Regulations, Section 609.8 for detailed information concerning assignment of UCFE wages.)

While the payment of UCFE benefits in the same amount and under the same terms and conditions as State UI benefits results in different treatment of former Federal employees among the States, it permits identical treatment within a State for former Federal employees and former private company/business employees.

2. The Relationship of UCFE to Other Unemployment Insurance (UI) Programs.

The Federal-State UI program, as formulated by the Congress in 1935, allows each State to establish its UC laws in conformity with broad Federal requirements. Therefore, State laws are not uniform and the eligibility and disqualification provisions of the various State UI programs vary considerably as State legislatures enact provisions that they consider appropriate for the State.

All State laws provide compensation for wage loss suffered by unemployed individuals who have had an attachment to the labor force and who are not subject to disqualification. The extent of such attachment necessary to meet the minimum requirements for monetary entitlement is established by State law and is measured in terms of total weeks worked and/or wages earned in employment covered by the State law in a recent period (usually 1 year) specified in the State law as the "base period." Under most State laws, the base period is the first four of the last five completed calendar quarters prior to the filing date of the new claim. The amount and duration of benefits to which an individual is entitled varies according to the formula in the law of the State.

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To be eligible for benefits, a person must be unemployed, or working less-than-full-time, with earnings less than an amount specified in the State law. In addition, he/she must be ready, willing, and able to work, and, in some States, actively seeking work, and must not be disqualified for any reason specified in the State law.

Generally, all State law provisions apply to claims filed under the UCFE program. However, there are interpretations that may not be made by State officials and must be made by the Secretary of Labor. In such cases, the State Employment Security Agency (SESA) administers the Secretary's decision under its law.

The UCFE claimant may participate in other programs for the payment of benefits. These programs are described below:

a. **Federal-State Extended Benefits (EB).** At times of economic downturns when the unemployment rate reaches a specified level as determined by State law, the duration of benefits are extended under the Federal-State EB program. In such event, benefits to individuals filing under the UCFE program will be extended.

The EB program was established by the Federal-State Extended Unemployment Compensation Act of 1970, and is generally financed 50-50 by the Federal and State governments. As a condition of tax offset credit under the Federal Unemployment Tax Act, a State law must provide for the payment of EB during periods of high unemployment to eligible individuals as prescribed under the Act.

EB provisions apply to claims under the UCFE program, except, all benefits paid are charged to the Federal agency. The Secretary's regulations which implement the EB program are published at 20 CFR Part 615.

b. **Additional Compensation/Benefits (AB).** Additional Compensation/Benefits (AB) is an extension of benefits under State law by reason of high unemployment or other factors. These benefits are totally financed by the State for State covered workers. Federal agencies must reimburse the cost of these benefits to UCFE claimants.

c. **Emergency or Temporary Extended Benefit Programs.** From time-to-time, special Federal emergency or temporary extended benefit programs are enacted during economic downturns. Such programs differ in their specifics but usually provide for some number of additional weeks of UC to individuals who have exhausted their rights to regular and other extended compensation programs.

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d. **Interstate Arrangement for Combining Employment and Wages (CWC).** The Combined Wage or CWC arrangement implements the requirements of Section 3304(a)(9)(B) of the Internal Revenue Code of 1986. The Interstate Arrangement for Combining Employment and Wages is published at 20 CFR Part 616.

The CWC arrangement provides a system whereby an unemployed worker with covered employment and wages in more than one State could elect to combine wages from all such States to satisfy the wage qualification (or weeks) requirements of the paying State, or as a means of increasing the weekly or maximum benefit amount (MBA). A condition for State law approval, all "States" are required to participate in the CWC arrangement.

Federal wages, both civilian and military, may be combined with State covered wages under this arrangement. The paying State for a CWC claim is the State in which the claim is filed, except if the claimant is monetarily ineligible on the basis of combining. In which case, the paying State is the last State in which the individual worked in covered employment, including Federal employment, and qualifies on the basis of combining wages.

Benefits paid are charged to the State whose covered wages have been used to establish the entitlement. Charges bear the same ratio to the total benefits paid as wages from the transferring State bear to the total wages used in determining the claim. When Federal wages are transferred, the transferring State is not billed for its share of the benefits. Instead, benefits that otherwise would have been chargeable to the transferring State are charged directly to the Federal account by the paying State.

Claims under this arrangement are filed under the intrastate and interstate programs.

e. **Interstate Benefit Payment Plan (IBPP).** The IBPP is an agreement to which the States voluntarily subscribe. Unlike other programs which describe a type of benefit such as UCFE, Unemployment Compensation for Ex-Servicemembers (UCX), State, etc., the Interstate Benefit Program (IB) describes a method for handling claims filed under all other programs on an interstate basis as opposed to intrastate.

The IBPP provides a method by which States act as agents for each other in taking and forwarding information pertaining to claims to the State (liable) in which the individual had covered employment or has an existing claim on file and who otherwise may be deprived of benefits because of their absence from the State.

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For some claims filed under this program, State agencies may request information from the Federal agency for response to another State. This occurs under a further cooperative arrangement between a few States, with the same base period and similar requirements, to initiate the request for wage and separation information for each other when a claim is filed as a means to reduce the length of time between the date of claim and the receipt of wage and separation information.

Until 1970, the Social Security Act (SSA) contained no provisions relating to the payment of benefits to individuals who no longer resided in the State in which wage and benefit credits were earned. In 1970, a provision was added to the SSA to prohibit the denial or reduction of benefits solely on the basis that the claim is filed from another State (or contiguous country with whom the United States has an agreement). However, the program continues to operate under the voluntary agreement.

By agreement between the governments of Canada and the United States, Canada participates in the IBPP with all States on a reciprocal basis. No other foreign country currently participates in the IBPP.

f. **Approved Training.** Section 3304(a)(8) of the Social Security Act prohibits the denial of benefits to an individual (for reasons relating to unavailability for work, active search for work, or refusal to accept work) who is in a State approved training program. Therefore, a former Federal employee in benefit status and attending State approved training would not usually be denied benefits for failure to leave training to accept a reinstatement or appointment with the Federal agency.

3. General Administration.

The U.S. Department of Labor (DOL), SESAs, and Federal agencies all have responsibilities for the administration of the UCFE program.

a. **Responsibilities of the U.S. Department of Labor.** Federal law (5 U.S.C. 8501-8509) establishes the Secretary of Labor as the authority responsible for interpretation of the UCFE law (including the determination of what constitutes Federal service and wages for UCFE purposes), promulgation of regulations to implement and carry out the purposes of the law, and for administration of the program including the payment of benefits, if necessary. Therefore, the construction of 5 U.S.C. 8501-8509 is the sole responsibility of the DOL. The Secretary's regulations which implement the UCFE program are set forth at 20

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CFR Part 609. The Federal law and regulations are reprinted as an Appendix A and B, respectively, to these instructions. The Secretary's coverage interpretations (Federal service and wages) are addressed in greater detail in Chapter II and Appendix C.

Any questions concerning interpretation of the law, the regulations, DOL instructions for the administration of the program, or coverage of Federal service and wages for UCFE purposes should be submitted to:

U.S. Department of Labor
Employment and Training Administration
Unemployment Insurance Service, Attn. TEUMI
200 Constitution Ave., N.W.
Washington, D.C. 20210

Federal law (5 U.S.C. 8502) allows the Secretary of Labor to enter into an agreement with a State, or an agency administering the UC law of a State, to determine and pay compensation claimed under this program in the same amount and under the same terms and conditions as apply to claims filed under the State law.

The Secretary has agreements with all States and all States and jurisdictions have approved laws. Therefore, State UI offices in each State, the District of Columbia, Puerto Rico and the Virgin Islands take and pay claims filed by former Federal employees and determine their eligibility to receive unemployment benefits.

Federal law (5 U.S.C. 8503) further provides that, in the absence of an agreement with a State or the agency administering such State's UC law, the Secretary will determine and pay benefits, in accordance with such State's law, to individuals who, except for the lack of an agreement, would have been payable under such State's law. "State law" as used in this context means the UC law of a State approved by the Secretary of Labor under Section 3304(a) of the Internal Revenue Code of 1986 (26 U.S.C. 3304(a)).

The DOL, Employment and Training Administration (ETA), Unemployment Insurance Service (UIS), reviews, on request, Forms ES-931, Request for Wage and Separation Information, and other documents where the Federal agency indicates that the claimant's employment was not "Federal service" for UCFE purposes and there is no prior DOL coverage ruling. In such instances, DOL examines the relevant facts to determine if coverage is consistent with the applicable UCFE provision and issues a coverage ruling advising the Federal and State agencies' of the Secretary's determination.

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In instances where a Secretary's coverage decision has been issued and a Federal agency submits a Form ES-931 with a Federal Service indication that is contrary to the Secretary's prior coverage decision, the SESA will follow the Secretary's coverage decision. (All facts must be the same as those contained in the coverage decision.)

The Department also receives, for review, a copy of each judicial or administrative decision ruling on an individual's entitlement to payment of UCFE or credit for a waiting period. This review, along with the coverage reviews discussed above, help to assure, insofar as possible, the uniform interpretation and application of the UCFE Act throughout the United States.

b. **Responsibilities of SESAs.** Full responsibility for State administration of the UCFE program lies with the head of the SESA. The Secretary of Labor has agreements with SESAs for the administration of the various UC programs. The DOL provides funds to SESAs for the proper administration of the UC program. Within the DOL's oversight responsibility, the ETA has recommended the designation, within the SESA's Central Office, of an individual responsible for managing UCFE operations within the framework of regular State UC operating units (See APPENDIX E for State Coordinators). The individual in charge of this coordination should be delegated sufficient authority and staff assistance to ensure compliance with UCFE instructions, and he/she should be responsible for the following activities:

(1) UCFE Activities.

(a) Ensuring the prompt preparation and distribution of appropriate procedural instructions, both in the Central Office and in local (or area) offices.

(b) Making on-site appraisals of the effectiveness of the programs, including adherence to procedures, with particular emphasis on local (or area) office operations.

(c) Developing methods to ensure the proper use of Federal civilian and military wage credits when applicable.

(d) Making recommendations for the training of claims interviewers and claims-processing personnel, including persons performing monetary and nonmonetary determination functions.

(e) Ensuring uniformity of interpretation, including the requirement that UCFE claimants be treated the same as other claimants (i.e., State UC) with respect to monetary

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eligibility, ability to work, availability for work, and disqualifications under the State UI law.

(f) Ensuring that the central office maintains a listing of Federal agency addresses and keeps them current by updating from Forms ES-931 and/or the issuance of Unemployment Insurance Program Letters (UIPLs) and providing those addresses to their operating facilities.

(g) Notifying the Louisiana Claims Control Center (LCCC) when a UCFE claim has been filed.

(2) UCFE Liaison Activities.

(a) Cooperating with Federal agencies.

(b) Following up on requests for wage and separation information when local or area offices have been unable to obtain the information.

(c) Supervising the program for verification of wage and separation information, including coordinating visits to Federal agency installations by appropriate personnel.

c. Responsibilities of Federal Agencies.

(1) **Management and Administration.** Each Federal agency has been advised to consider establishing a position of Program Manager to head the UCFE program. The manager should have the authority to make changes to the agency's internal operations in order to ensure effective administration.

20 CFR 609.26 of the Secretary's Regulations (5 U.S.C. 8508) provides that each Federal agency shall designate one or more of its officials to be its liaison concerning UCFE matters with the DOL. This position may be combined with the Program Manager position by the Federal agency.

The Federal agency is to advise the DOL concerning the following:

(a) The name, title, address and telephone number of the designated liaison.

(b) Any change of address to which all forms and correspondence pertaining to a UCFE claim are to be sent.

(c) Any instructions or informational material prepared by the agency pertaining to the UCFE program is to be submitted for approval to the DOL prior to issuance.

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The following address will be used by the Federal agency for providing the above cited information:

U.S. Department of Labor
Employment and Training Administration
Unemployment Insurance Service - TEUMI
200 Constitution Avenue, N.W.
Washington, D.C. 20210

(2) Requirements of Federal Agencies. Federal agencies are responsible (5 U.S.C. 8506) for:

(a) Furnishing information to their separating employees concerning their rights to receive UC on Form SF-8.

(b) Furnishing information as requested by the SESA to determine the claimant's entitlement to UC which includes:

(i) findings of fact relating to a determination of "Federal Service" to be made by the SESA in accordance with Federal Law and the directives of the Secretary of Labor;

(ii) the periods of applicable Federal Service;

(iii) the amount of Federal wages in connection with Federal Service; and,

(iv) the reasons for termination of Federal Service.

(c) Furnishing corrected or additional information on request of a claimant, SESA, or a State administrative appeals authority.

(d) Furnishing State agencies with such statistical reports of wages and employment as may be required in connection with the administration of the program.

(e) Reimbursing the Federal Employee Compensation (FEC) Account in the full amount of the quarterly bill for benefits paid within 30 days of receipt. Resolving issues pertaining to charges with the appropriate State UCFE coordinator.

(f) Providing a statement and explaining to all newly hired and rehired employees who may be receiving or may

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have applied for UC benefits of their responsibility to notify the SESA, in writing, of their employment. Federal personnel offices shall provide to each newly hired and rehired employee, the following statements:

"If you have applied for or are receiving Unemployment Compensation payments, it is your responsibility, under penalty of law, to notify the appropriate local office of your employment. Failure to do so can result in a penalty such as a fine, imprisonment, or both".

(g) Notifying the U.S. DOL of the address to which the UCFE bill and the quarterly detailed list of charges are to be sent.

(h) Ensure that instructions issued by the U.S. DOL are distributed to and executed by payroll and personnel units at all installations of the agency and ensure that the agency is carrying out its responsibilities in a timely manner to:

(i) Provide written internal procedures to all staff having any responsibility for any part of the UCFE program.

(ii) Advise all employees of any new or revised procedures or instructions provided by the U.S. DOL.

(iii) Take actions to correct problems noted during reviews/visits conducted by DOL, regional offices and/or SESA representatives.

(iv) Assess the agency's UCFE program operations through the internal control process on a regular basis.

(v) Review periodically the contractor's performance if the Federal agency is utilizing the services of a contractor to assist in its UCFE responsibilities.

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CHAPTER II - FEDERAL SERVICE AND FEDERAL WAGES

1. Introduction.

a. **Federal Service.** "Federal service" is not limited to civilian employees who are covered for civil service retirement purposes. The term "Federal service," as used in the UCFE program and these instructions, means work performed in the employ of the United States, or any wholly-owned or partially-owned instrumentality of the United States, with the exception of the specifically excluded services listed in 5 U.S.C. 8501. Federal agencies have been advise that individuals performing "Federal Civilian Service" will be eligible for benefits upon separation, provided the individuals meet the employment and wages qualifying requirements of State UC law. Benefits paid by the SESA are charged to the Federal agency based on the Federal agency pro rata share of benefit cost.

b. **Federal Wages.** The term "Federal wages" is defined in (5 U.S.C. 8501(2)) as "all pay and allowances, in cash or in kind, for Federal service" and thereby includes all payments for sick leave, annual leave (including lump-sum) and severance pay.

c. **Secretary's Interpretations.** The Secretary of Labor makes determinations whether specific instances or categories of Federal employment and pay constitute "Federal Service" and/or "Federal Wages" in accordance with 5 U.S.C. 8501.

(1) Letter Interpretations. Originally, these interpretations were provided to the impacted Federal agency and SESA in the form of a letter. The major interpretations are listed below by Federal agency in subchapters 2. and 3. of this CHAPTER.

(2) Coverage Rulings. The DOL, UIS, will provide the following controlling guidance to the SESAs.

(a) Guidance on certain categories of workers. The SESAs are expected to make UCFE determinations of claimant eligibility and only request UCFE coverage rulings in rare instances. The UIS will issue operating instructions providing the SESAs with general guidance on certain categories of workers who either do or do not perform "Federal service" for UCFE program coverage purposes.

(b) Blanket Rulings. These UCFE program coverage rulings are issued by the Director, UIS, and published in the Federal Register when it is possible to determine whether or not

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"Federal service" for UCFE program coverage purposes is performed by a class of workers. The first such ruling (UCFE Program Coverage Ruling No. 92-1) dealt with the Agricultural Promotion Boards and Marketing Agreement and Order Administrative Committees and was published April 17, 1992. During fiscal years 1994 and 1995, all earlier rulings will be reissued in the coverage ruling format.

(c) Individual Rulings. These UCFE program coverage rulings are made by the Director, UIS, on a case-by-case basis when it is not possible to issue a blanket ruling because the factors involving the case are unique or otherwise not present in other cases.

Appendix C has been reserved for such coverage rulings and operating instructions.

2. Secretary's Interpretations: Federal Service/Federal Wages.

The Secretary of Labor has determined the following types of employment to constitute "Federal service" (civilian) and "Federal wages" (civilian) within the meaning of the Federal UCFE law.

a. Department of Agriculture.

(1) Agriculture cooperative employees (i.e., State-Federal) serving under Federal appointments including those with the Agriculture Extension Service.

(2) Agriculture Stabilization and Conservation Service- employees of county and community committees (local committees are known as ASC committees).

(3) Agricultural Boards and Committees- employees only, not members.

(4) Soil Conservation Service.

b. Department of Commerce.

(1) Census- Census enumerators.

(2) Coast and Geodetic Survey- commissioned officers.

(3) Public Works and Economic Development Act (PWEDA) of 1965, Public Law 89-136.

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(4) Regional Fishery Management Councils- Executive directors and subordinate employees who are paid wages/salaries from the following named Councils' funds:

- (a) Caribbean Council,
- (b) Gulf Council,
- (c) Mid-Atlantic Council,
- (d) New England Council,
- (e) North Pacific Council,
- (f) Pacific Council,
- (g) South Atlantic Council, and
- (h) Western Pacific Council.

c. Department of Defense.

(1) Armed Forces non-appropriated fund activities-

(a) services performed in the United States in the employ of authorized non-appropriated fund activities by civilian (citizen or non-citizen) employees and U.S. military personnel employed voluntarily during off-duty hours.

(b) services performed by American citizens and off-duty U.S. military personnel in the employ of authorized non-appropriated fund activities operating at overseas locations.

(2) National Guard and Air National Guard Civilian employees under the National Guard Technicians Act of 1968, Public Law 90-486.

d. Department of Health and Human Services.

Public Health Service commissioned officers.

e. Department of Interior.

(1) Individuals paid from Congressional appropriations of tribal funds held in trust by the United States and disbursed by Federal Government disbursing officers on the basis of vouchers and payrolls certified by U.S. Government officials.

(2) Fish and Wildlife Service- Mammal control agents.

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f. Department of Justice.

Inmates of correctional institutions appointed by Federal agencies prior to release under the terms of the Prisoner Rehabilitation Act of 1965 (Public Law 89-176).

g. Department of Transportation.

(1) Maritime Administration- administrative enrollees.

(2) U.S. Merchant Marine Academy- including Ships Service Store, Junior Officer's Mess, Officer's Club, Petty Officer's Club, Midshipmen Morale Fund, Athletic Fund, Cultural Events Fund, Protestant Chapel Fund, Jewish Chapel Fund, and Catholic Chapel Fund.

(3) Wage Marine positions.

h. Miscellaneous- Other.

(1) Administrative employees of members of Congress and congressional committees.

(2) Joint Federal/State Commissions- employees paid by the Commission.

(3) Joint employees. That portion of joint service performed and the wages earned in the employ of the partially-owned instrumentality of the United States.

(4) National Credit Union Administration (NCUA).

(5) Partially owned Federal instrumentalities- including any Federal intermediate credit banks, banks for cooperatives, or production credit associations in which the Federal Government owns capital stock.

(6) Presidential and Schedule C appointees.

(7) Temporary appointments, such as 30, 60, or 90 day temporaries and Postal Service Christmas temporaries or appointments for other short-term or part-time non-career employment.

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3. Secretary's Interpretations: Not Federal Service/Federal Wages.

The Secretary of Labor has determined that service in the employment of the entities or in the particular categories of employment identified below does not constitute "Federal service" under 5 U.S.C. 8501(1).

a. Departments of Government.

(1) Department of Interior. Individuals paid from Indian tribal funds.

(2) Department of State. Grantees under the Educational Exchange Program (U.S. Information and Education Act of 1948, Public Law 80-402).

(3) District of Columbia Government. Employment covered by District Unemployment Compensation Act.

(4) Peace Corps- Volunteers and Trainees.

(5) Trust Territories (such as Guam, American Samoa). Employment provided by Guam and the American Somoas does not constitute Federal Civilian employment.

b. Other Institutions.

(1) Federal Credit Unions.

(2) Federal Intermediate Credit Banks, banks for cooperatives, or production credit associations in which the Federal Government owns no capital stock.

(3) Federal Home Loan Banks.

(4) Federal Land Banks.

(5) Federal National Mortgage Association.

(6) Federal Reserve Banks.

(7) Local Housing Authorities- State, district, county, or municipal.

c. Miscellaneous- Other.

(1) Community Service Employment for Older American Workers- enrollees/members.

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(2) Elective Officials in the Executive or Legislative Branches.

(3) Elective State Coverage. When a partially-owned instrumentality of the United States, i.e., Production Credit Association, Intermediate Credit Bank, etc., has elected State coverage.

(4) Joint Federal/State Commissions- Employees not paid by the Commission.

(5) Service Performed Outside The United States. Service performed outside the United States by non-citizens.

(6) Temporary Emergency Employment- employment on a temporary basis in cases of fire, storm, earthquake, flood, etc., to take care of a catastrophic emergency.

(7) Youth Conservation Corps (YCC)- enrollees/members.